IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.R. No. 6438 of 2001
Date of Decision: 25.8.2006

Mangal Dass ...Petitioner

Versus

M/s Rama Ice & Cold Storage ....Respondent

Coram: Hon'ble Mr. Justice Hemant Gupta.

Present: Shri Ashwani Talwar, Advocate, for the petitioner.
Shri B.S. Bedi, Advocate, for the respondent.

JUDGMENT

The challenge in the present revision petition is to the order passed by the learned Executing Court on 1.9.2001, whereby the objections dated 19.11.1996, filed by the petitioner were dismissed.

A decree for specific performance of agreement dated 15.9.1979 was granted by the learned trial Court on 5.2.1992. The defendant was directed to get the sale deed executed and registered within two months after receiving the remaining sale consideration of Rs.50,000/-. The dispute arose between the parties as to whether Rs.50,000/- was required to be deposited within two months of the date of decree or the defendant was under obligation to execute the decree. The learned trial Court passed an order on 30.10.1995 on an application filed by the petitioner under Section 28 of the Specific Relief Act, 1963, whereby the decree holder was granted time upto 2.12.1995 to deposit the balance sale

consideration.

One of the objections raised in the objection petition is that Rs.50,000/- allegedly deposited by the respondent-decree holder was not deposited by the decree holder as the decree holder M/s Rama Ice & Cold Storage, Delhi is not in existence and, therefore, the deposit by any other person, cannot be treated as deposit on behalf of the decree holder. It is also pointed out that the original treasury challan dated 15.11.1995 through which the alleged amount of Rs.50,000/- has been deposited, is not even signed by the decree holder. Thus, the said amount of Rs.50,000/- cannot be treated as deposit in terms of the decree. It was the stand of the decree holder that the decree holder Firm has deposited the amount through its attorney in Court with the permission of the Court. Therefore, the judgment debtor is estopped from taking this plea before the learned Executing Court.

It was found that an objection was raised by the objector that Lajpat Rai is not authorised to file the present application, during the course of trial and in the judgment it has been held that Lajpat Rai was the duly authorised attorney of the plaintiff. Similar objection raised by the petitioner was again dealt with by the Executing Court in its order dated 8.5.2000, wherein the said objection was found to be without any merit, in view of the earlier application/objections raised by the petitioner.

No other point is urged.

Since the amount of Rs.50,000/- has been deposited as the amount payable to the judgment debtor within the time granted by the learned trial Court, therefore, I do not find any illegality or irregularity in the impugned order, which may warrant interference by this Court in

exercise of its revisional jurisdiction.

Hence, the present revision petition is dismissed.

25.8.2006 (HEMANT GUPTA)
ds JUDGE